

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants:	R.C. Dezutter et al.	Attorney Docket No.:	WEYE121573/25273
Application No.:	10/674,609	Art Unit:	1731 / Confirmation No: 4192
Filed:	September 29, 2003	Examiner:	M. Halpern
Title:	METHOD FOR CONVEYING, MIXING, AND LEVELING DEWATERED PULP PRIOR TO DRYING		

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Seattle, Washington 98101

January 30, 2008

TO THE COMMISSIONER FOR PATENTS:

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reason(s) stated below, and no more than five (5) pages have been provided.

Claims 1-14 of the instant application were finally rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,811,879 ("Dezutter"), which incorporates U.S. Patent No. 6,769,119 ("Vrbanac") by reference.

**The Dezutter Reference Was Owned or Was Under an Obligation of Assignment to the Same Person**

Paragraph (c)(1) of Section 103 does not preclude patentability where the subject matter by another person and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Dezutter was filed on August 30, 2002, and published on March 4, 2004. The present application was filed on September 29, 2003. Thus, Dezutter is only available as prior art under one or more of the subsections (e), (f), and (g) of 35 U.S.C. § 102. This paper includes a statement of common ownership as follows.

Application No. 10/674,609 and U.S. Patent No. 6,811,879 were, at the time the invention of Application No. 10/674,609 was made, owned by Weyerhaeuser Company.

Accordingly, Dezutter is not available as prior art to be used in a 35 U.S.C. § 103(a) rejection because of the provisions of 35 U.S.C. § 103(c). Dezutter was relied on for disclosing

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blending adjuvants, pulp flaking, and pulp drying. Vrbanac alone cannot render the claims obvious for the following reasons.

The Office Action Failed to Make Clear How or Why Each Limitation is Disclosed in the Prior Art

Applicants submit that the rejection was improper as the Examiner committed clear error by finding that the cited references teach the claim limitations of depositing uneven quantities of pulp onto a belt conveyor, leveling the uneven quantities of pulp on the belt conveyor, and feeding a substantially even quantity of pulp per unit time from the belt conveyor. No clearly articulated explanation is provided that specifically identifies which element of Vrbanac corresponds to each element of the claims.

First, Claim 1 recites depositing dewatered pulp from a shaftless screw conveyor to a moving belt conveyor, thereby forming *uneven quantities* of pulp along a length of belt conveyor. The Examiner fails to point out where in Vrbanac the limitation of depositing *uneven* quantities of pulp onto a belt conveyor is disclosed. The paucity of comments in the Office Action leaves applicants to surmise that the Examiner is referring to conveyor 110. The conveyor 110 disclosed in Vrbanac is a vacuum conveyor used to separate fines from fibers after the pulp is dried (see, for example, Column 9, lines 51-63). Nothing in Vrbanac discloses that *uneven* quantities of dewatered pulp are deposited on the conveyor belt. In fact, the Examiner comments that *even* distribution of pulp onto a belt conveyor is disclosed by Vrbanac.

Second, Claim 1 recites *leveling* the uneven quantities of pulp to produce a *substantially even quantity of pulp along a length of the belt conveyor and then feeding the pulp from the belt conveyor to the pulp flaker*. While the Examiner asserts that even distribution of pulp on a belt conveyor is disclosed by Vrbanac in Figure 2, nothing in Vrbanac remotely discloses uneven distribution of dewatered pulp on a conveyor belt followed by leveling into even quantities along a length of the belt conveyor followed by feeding the pulp to a flaker. According to the Examiner, Vrbanac teaches that the pulp enters a screw (the pulp feed conduit 44) where mixing occurs and then proceeds to a flaker (presumably the material handling fan 56, which may be a de-flaking device, Column 7, line 61, to Column 8, line 2). If this is the case, undisclosed elements, namely, the belt conveyor and the means for leveling, not present in Vrbanac would need to be inserted between the shaftless screw and the de-flaking device to level the uneven quantities of pulp as required by Claim 1. However, nothing in Vrbanac teaches leveling that occurs along a length of the belt conveyor or that this feature should be included before a de-flaking device. The Examiner asserts that leveling by chute and rotary distributor are disclosed

by Vrbanac in Figure 2. Again, the paucity of the Examiner's comments renders any rebuttal to this assertion mere speculation on the part of the applicants. Vrbanac appears to disclose a pulp feed device 60 that feeds "a regulated continuously consistent supply of feed pulp at a desired feed rate to the pulp intake 24 of the jet drier 20" (Column 8, lines 5-8). In one embodiment, the pulp feed device 60 may be a rotary air lock 62 (Column 8, lines 21-22), which applicants understand to be the rotary distributor referred to by the Examiner. However, Vrbanac does not remotely teach that the pulp feed device 60 could or should perform a leveling function on the *belt conveyor*, even if a hypothetical conveyor were inserted between the screw 44 and the de-flaker 56, and the pulp feed device 60 were moved from its present location to the hypothetical conveyor. Further, applicants can only surmise what "chute" is being referred to in the Office Action. Vrbanac discloses a head box 140 that deposits dried fibers and fines on the conveyor screen 112 (Column 10, lines 23-40). However, nothing in Vrbanac teaches that the head box levels dewatered pulp to produce a substantially even quantity of pulp along the belt conveyor. And even if it did, the head box levels the pulp before the pulp is actually deposited on the conveyor contrary to the limitation of depositing *uneven* quantities of pulp along a length of belt conveyor.

Third, Claim 1 recites feeding a substantially even quantity of pulp per unit time from the belt conveyor to a pulp flaker. Vrbanac teaches that the dewatered pulp may be run through the material handling fan 56 to break apart the larger pieces of pulp prior to introduction to the drier (Column 7, lines 61-67). The pulp feed device 60 of Vrbanac, which in some embodiments is a rotary air lock 62, functions to provide a regulated continuously consistent supply of feed pulp at a desired feed rate to the pulp intake 24 *of the jet drier 20*. However, Vrbanac fails to teach feeding a substantially even quantity of pulp per unit time from the belt conveyor to a pulp flaker. As stated in the Background section of the present application, the claimed methods solve the problem that related to the use of the rotary airlock. The present application discloses the replacement of the rotary airlock with a belt conveyor, a means for leveling the pulp coming from the belt conveyor, and a pulp flaker, where previously the rotary airlock was used. Nothing that is disclosed in Vrbanac could have remotely led one skilled in the art to recognize the problem with the airlock, let alone do away with the rotary air lock and have replaced it with the belt conveyor, leveling means, and pulp flaker.

Similarly, Claim 7 recites conveying and mixing dewatered pulp resulting in an uneven mass flow of pulp, followed by leveling the uneven mass flow of pulp to produce a substantially even rate of mass flow of pulp and, thereafter, depositing the pulp in a substantially even rate of mass flow into a pulp flaker. As discussed above in relation to Claim 1, there is simply no

adequate reason why one skilled in the art would be led to the method of either Claim 1 or Claim 7, wherein pulp is leveled before being fed into a pulp flaker, from the disclosures of Dezutter and Vrbanac. As affirmed by the Supreme Court in *KSR*, obviousness rejections must be supported by articulated reasoning with some rational underpinning. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (C.A. Fed. 2006)).

The Office Action does not Explain How the Sequence of Steps is Rendered Obvious by the References

Claims 1 and 7 recite a *sequence* of steps that are performed *in sequence*. If the claims recite a sequence of steps, then the Examiner must point out the reasons why the sequence and not merely the steps would have been obvious from the prior art. Failing to consider the *sequence* of steps as they are arranged in the claims and merely finding that each step is performed independently of each other step is the clear error committed by the Examiner that should result in overturning the rejection.

The Examiner admits that the cited prior art process includes *additional steps*, but still considers the claims obvious because one skilled in the art *could have* combined the elements as claimed by known methods and that, in combination, each element would have performed the same function as it did separately.

Claims 1 and 7 are both related to a method wherein before feeding dewatered pulp into a pulp flaker, the pulp is leveled to produce a substantially even quantity of pulp mass flow so that the flow to the pulp flaker is generally constant. In rejecting the claims, the Examiner mentions that Vrbanac discloses pulp distribution onto a belt conveyor and a chute and a rotary distributor for leveling the pulp. The problem with the Examiner's analysis is that Vrbanac discloses that the chute and belt conveyor 110 are located *after* the pulp flaker and the pulp dryer. As for the rotary distributor, the rotary airlock 60 is not even physically proximate to the chute or belt conveyor 110. Without any adequate explanation or apparent reason to rearrange the components that are taught in Vrbanac, the Examiner finds Claims 1 and 7 obvious based on the open ended nature of the claims and that one of ordinary skill *could have* combined the elements by known methods and that each element in combination would have performed the same function as it did separately. This explanation is inadequate to render the claims obvious for the following reasons.

The claims being open ended does not mean that express limitations in the claims should be ignored. Claim 1, for example, recites depositing dewatered pulp from a shaftless screw conveyor to a moving belt conveyor, thereby forming uneven quantities of pulp along a length of belt conveyor. The conveyor 110 in Vrbanac, however, is remote from the shaftless screw

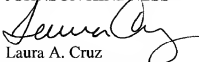
conveyor 44, and no explanation or reason is given why it should be moved after the screw conveyor 44 and before the rotary airlock 60. How or why it makes sense to put a vacuum conveyor for separating fines before the pulp is even dried by the jet drier 20 is beyond all comprehension. Claim 1 also recites leveling the uneven quantities of pulp to produce a substantially even quantity of pulp along a length of the belt conveyor. Nothing in Vrbanac even remotely discloses this. The Examiner is either suggesting one could move the conveyor 110 after the rotary airlock 60 or move the rotary airlock 60 before the belt conveyor 110. Either way presents a problem. First, since the Examiner views the rotary airlock 60 as the means to accomplish leveling, putting the belt conveyor 110 after the airlock 60 eliminates any possibility that the rotary airlock 60 can also be the *pulp flaker* that is required by the step of feeding a substantially even quantity of pulp per unit time from the belt conveyor to a pulp flaker. The contradiction that the rotary airlock 60 is viewed as both the means for leveling and the pulp flaker is apparently not troubling to the Examiner. On the other hand, moving the rotary airlock 60 before the belt conveyor 110 means that the step of feeding a substantially even quantity of pulp per unit time from the belt conveyor to a pulp flaker is ignored, since Vrbanac discloses that the pulp from the belt conveyor 110 travels to a fiber collection station 160 (for baling) and not to a pulp flaker.

Similarly, Claim 7 recites conveying and mixing dewatered pulp resulting in an uneven mass flow of pulp, followed by leveling the uneven mass flow of pulp to produce a substantially even rate of mass flow of pulp and, thereafter, depositing the pulp in a substantially even rate of mass flow into a pulp flaker. As discussed above in relation to Claim 1, there is simply no adequate reason why one skilled in the art would be led to the method of either Claim 1 or Claim 7, wherein pulp is leveled before being fed into a pulp flaker from the disclosures of Dezutter and Vrbanac.

Accordingly, the rejections are respectfully asked to be withdrawn.

Respectfully submitted,

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